

Notice of Allowability

Application No.

10/695,237

Examiner

Tramar Harper

Applicant(s)

CAUDILL, WESLEY

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/21/06.
2. ☒ The allowed claim(s) is/are 1, 4-6 and 10.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with R.C. Harpman on 3/14/07.

The application has been amended as follows:

In the Claims:

Claim 1:

- line 1, replace "comprising, " with – comprising: –
delete "a" after "comprising,"
- line 2, add – a – before "starting"
add – , – after "finish gate"
replace "same." with – there between; –
- line 4, replace "therefrom," with – therefrom; –
- line 5, replace "a release assembly" with – a car release assembly on
said starting gate –
- line 6, replace "paths," with – paths; –
- line 7, add – a – after "having" and before "vertically"
- line 8, replace "and" with – , –

Art Unit: 3714

add – , – after display

- line 9, replace “light,” with – light; –
- line 10, add – an – after “having” and before “finish”
- replace “flag” with – flags –
- line 11, replace “there from” with – therefrom –
- line 12, replace “paths,” with – paths; –
- line 15, replace “gates,” with – gates; –
- line 18, replace “therebetween, said” with – there between, and said –
- line 19, replace “surfaces,” with – surfaces; –
- line 20, replace “assembly,” with – assembly; and –
- line 22, add – , – after “flags” and before “and”

Claim 4:

- line 1, add – , – after “1” and before “wherein”
- line 2, add – the – after “of” and before “said”
- replace “comprises,” with – comprises: –
- line 3, replace “there from” with – therefrom –
- line 4, add – , – after “stop” and before “and”
- replace “arm,” with – arm; and –

Claim 5:

- line 1, add – , – after “1” and before “wherein”
- line 2, replace “comprises,” with – comprises: –

Claim 6:

Art Unit: 3714

- line 2, add – , – after “1” and before “wherein”
- replace “comprise,” with – comprises: –

Claim 10:

- line 2, add – , – after “1” and before “wherein”

Claims 14, 15, and 19:

Claims 14, 15, and 19 are canceled.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

Patentability seen in, although not limited to independent Claim 1: the combination of elements of a car racing game device comprising of a starting gate, a finish gate, and track assembly there between. The starting gate has inclined track paths and an elevation post extending therefrom. The starting gate also has a car release assembly selectively extending through openings of respective track paths. The car release assembly is remotely activated. The starting gate furthermore having a starting tower with a vertical sequential starting light assembly, a foul light, and an information display. The finish gate having a finish engagement flags means that are activated or engaged by independent racecars on respective track paths. The track assembly comprises of multiple track sections connected/secured to each other via connector fittings and to the finish and start gates. The track sections have oppositely disposed parallel side rails with depending engagement channels, an upstanding track divider there between, the connector fitting having an upstanding abutment band defining interconnecting track path surfaces. The device including an electronic control circuit for interconnecting the

Art Unit: 3714

car release assembly, finish engagement flags, and an electronic sound effect generator in communication with said remote activation means and source of electrical power. The closest prior art of record does not teach or fairly suggest the claimed features in combination. Dennis (US 4,872,680) discloses an electric drag strip that comprises of a starting gate and tower having a starting sequential light assembly, a finish gate having engagement flags trigger by cars activating sensors, a track assembly connected between the starting and finish gate, and a remote activation means for releasing the respective cars. However, Dennis excludes a car release assembly, information display, an electric sound effect generator, a foul light indicator, a starting gate having inclined track paths and an elevation post extending therefrom, the track sections having oppositely disposed parallel side rails with depending engagement channels, an upstanding track divider there between, the connector fitting having an upstanding abutment band defining interconnecting track path surfaces, or the car racing game device including an electronic control circuit for interconnecting the car release assembly, finish engagement flags, and an electronic sound effect generator in communication with said remote activation means and source of electrical power.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

McKay (US 4,605,229) teaches a toy drag strip that includes a starting gate lighting assembly with flag release arms (car release assembly).

Smith III et al. (US 4,247,107) teaches an electronic racing track that comprises of an information display and a sound generator for generating sounds related toward a simulated race.

Sheldon (US 3,403,908) teaches a toy racetrack set with a starting the gate that comprises of vertically aligned colored lights for pre-staging, stating, starting and foul indicators for respective cars.

Fugitt et al (US 6,647,893) teaches a toy racetrack with a starting gate/release assembly with inclined track portion and extended support posts extending from the inclinded track sections.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tramar Harper whose telephone number is (571) 272-6177. The examiner can normally be reached on 7:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3714

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TH

3/16/07


ROBERT E. PEZZUTO
SUPERVISORY PRIMARY EXAMINER